

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 623 of 1997

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SHILPSHRI COOP HOUSING SOCIETY LTD, THROUGH PRESIDENT

Versus

STATE OF GUJARAT  
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Appearance:

MR MUKESH R SHAH for Petitioner

MR SJ DAVE AGP for Respondent No. 1

MS ROOPAL R PATEL for Respondent No. 3  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 19/07/1999

ORAL JUDGEMENT

1. Learned counsel for the petitioner is absent although the matter is called on a number of occasions.

2. The petitioners herein challenge the orders passed by the State in the proceedings under section 34 of the Urban Land (Ceiling & Regulation) Act, 1976, coupled with notice issued under section 10(5) of the aforesaid Act. It is pertinent to note at this stage that the notice demanding possession under section 10(5) of the said Act is issued to one Naranbhai Pursottambhai Patel ( who may perhaps be the original land holder), who is represented by respondent no.3 herein. The said notice has not been issued to the present petitioner.

3. The petitioner is a Cooperative Society which has categorically asserted in the petition that it was admittedly in possession of the lands in question prior to 1976 and this was to the knowledge of respondent nos. 1 & 2. These specific assertions are made at the end of para 3 of the petition.

4. The respondents have not filed any affidavit-in-reply. Learned counsel for the respondent-State is unable to point out anything from the record to indicate that possession under section 10(6) has been taken, either from the original holder of the land, or from the petitioner-Society.

5. This petition was admitted by orders of this Court dated 22nd January, 1997, and by virtue of subsequent orders dated 6th February, 1997, ad interim relief was confirmed as interim relief, with a direction to the petitioner-Society also to maintain status quo. It therefore appears that the respondent-State has not exercised its power under section 10(6) of the Act of 1976 to obtain actual and physical possession of the land in question.

6. There is no controversy that the State of Gujarat adopted Urban Land (Ceiling & Regulation) Repeal Act, 1999 on 30th March, 1999, and by virtue of section 4 thereof, all proceedings pending on the said date shall abate. It is accordingly so held and found. This petition is accordingly disposed off. Rule discharged with no orders as to costs. Interim relief stands vacated.

(Y.B. BHATT, J.)

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